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AMENDMENTS TO LB 211

(Amendments to Final Reading copy)

1 1. Strike section 2 and insert the following new
2 sections:

3 "Section 1. This act shall be known and may be cited as
4 the Nebraska Archaeological Resources Preservation Act.

5 Sec. 2. The Legislature hereby finds and declares that:

6 (1) The resource base of archaeological sites is being
7 threatened at an increasing rate by agricultural, urban,
8 commercial, transportation, governmental, and industrial
9 development; and

10 (2) Archaeological sites represent an important public
11 resource embodying the record of our state's cultural heritage.

12 Sec. 3. For purposes of the Nebraska Archaeological
13 Resources Preservation Act:

14 (1) Archaeological resource means any material object of
15 past human life or activities that is of archaeological interest.
16 Such objects include, but are not limited to, pottery, basketry,
17 bottles, weapons, tools, structures or portions of structures,
18 dwellings, rock paintings, rock carvings, intaglios, graves, human
19 skeletal materials, or any portion or piece of any of such items.
20 Nonfossilized and fossilized paleontological specimens, or any
21 portion or piece thereof, shall not be considered archaeological
22 resources unless found in an archaeological context. No object
23 shall be treated as an archaeological resource under this

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1 subdivision unless such object is determined to be at least fifty
2 years of age;

3 (2) Archaeological site means a place or location where
4 archaeological resources are found;

5 (3) Master archaeological site file means the records
6 inventory of all known Nebraska archaeological sites maintained by
7 the Nebraska State Historical Society;

8 (4) National Register of Historic Places means the
9 register of districts, sites, buildings, structures, and objects
10 significant in American history, architecture, archaeology,
11 engineering, and culture, maintained by the Secretary of the
12 Interior under the authority of the federal Historic Sites,
13 Buildings, and Antiquities Act, 16 U.S.C. 462(b), and the National
14 Historic Preservation Act, 16 U.S.C. 470a(a)(1)(A);

15 (5) State agency means any division, department, board,
16 bureau, commission, or agency of the State of Nebraska; and

17 (6) Undertaking means a project, activity, or program
18 funded in whole or in part under the jurisdiction of a state
19 agency.

20 Sec. 4. (1) There is hereby established the State
21 Archaeology Office which shall be a division within the Nebraska
22 State Historical Society. The purpose of the office shall be to
23 coordinate and encourage appropriate archaeological undertakings
24 and to preserve archaeological resources. The State Archaeology
25 Office may adopt and promulgate rules and regulations to carry out
26 the purposes of the Nebraska Archaeological Resources Preservation
27 Act.

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1 (2) The State Archaeology Office shall be headed by the
2 State Archaeologist. The State Archaeologist shall be a graduate
3 of a recognized college or university with a graduate degree in
4 archaeology or anthropology and shall have sufficient practical
5 experience and knowledge of archaeology to carry out the purposes
6 of the act.

7 (3) The State Archaeology Office shall:

8 (a) Promote development of archaeological resources for
9 educational, cultural, tourism, and scientific purposes;

10 (b) Support popular and avocational interest in
11 archaeological resources through field trips, demonstrations,
12 seminars, and excavations throughout the state;

13 (c) Conduct a program of locating, identifying,
14 quantifying, and assessing the significance of the state's
15 archaeological resources;

16 (d) Maintain the master archaeological site file;

17 (e) Advise state agencies, political subdivisions,
18 nongovernmental organizations, commercial and business interests,
19 private property owners, individuals, and others as to the
20 provisions and requirements of the act;

21 (f) Serve as the liaison office in transactions dealing
22 with archaeological resources between state agencies and between
23 the state and the federal government;

24 (g) Cooperate with state agencies and others in
25 overseeing the execution of undertakings required by the act;

26 (h) Serve as the liaison office between state agencies
27 and Indian tribes, the Commission on Indian Affairs, or other

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1 constituent groups culturally affiliated with archaeological sites
2 involved in undertakings;

3 (i) Maintain a list of archaeologists qualified to
4 conduct research projects required by the act;

5 (j) Maintain a permanent repository and electronic data
6 base of published and unpublished sources on the archaeological
7 resources of the state;

8 (k) Prepare, publish, and distribute for professional use
9 and public education reports, bulletins, pamphlets, maps, and other
10 products necessary to achieve the purposes of the act;

11 (l) Implement a program of emergency salvage archaeology,
12 which includes surveys and either salvage or preservation of
13 archaeological resources imperiled by development activities or
14 natural forces;

15 (m) Administer and manage grants, bequests, devises, tax
16 incentives, and easements of property to the state for the purposes
17 of preserving archaeological sites and resources; and

18 (n) Ensure the long-term curation and management of
19 collections and records resulting from undertakings within the
20 state;

21 (o) Identify properties included in the National Register
22 of Historic Places that are endangered, and coordinate or
23 facilitate the purchase and maintenance of such properties by other
24 public or private agencies; and

25 (p) Conduct all other activities necessary to carry out
26 the purposes of the act.

27 Sec. 5. (1) Except as provided in subsection (2) of this

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1 section, the head of any state agency having jurisdiction over a
2 proposed state or state-funded undertaking, which has potential to
3 affect archaeological resources or sites, shall, prior to the
4 approval of the expenditure of any state funds on the undertaking,
5 notify the State Archaeology Office of the undertaking and
6 cooperate with the office to identify and develop measures to
7 mitigate the effect of the undertaking on any archaeological site
8 or resource that is included in or eligible for inclusion in the
9 National Register of Historic Places.

10 (2) The Department of Roads shall be exempt from the
11 provisions of the Nebraska Archaeological Resources Preservation
12 Act as long as a cooperative agreement exists between the
13 Department of Roads and the Nebraska State Historical Society which
14 ensures that all highway construction projects meet federal
15 historic preservation legislation and regulations, and such federal
16 preservation legislation and regulations fulfill or exceed the
17 objectives and standards of the act.

18 (3) Nothing in this section shall be construed to abridge
19 the rights of private property owners and in no case shall a
20 private property owner be required to pay for activities undertaken
21 by the State Archaeology Office.

22 Sec. 6. The State Archaeology Office may accept, use,
23 disburse, and administer all funds or other property, services, and
24 money allotted to it for purposes of the Nebraska Archaeological
25 Resources Preservation Act and may prescribe the conditions under
26 which such funds, property, services, or money will be accepted and
27 administered.

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1 Sec. 7. (1) Any person who knowingly and willfully
2 appropriates, excavates, injures, or destroys any archaeological
3 resource on public land without written permission from the State
4 Archaeology Office is guilty of a Class III misdemeanor.

5 (2) When the State Archaeology Office has cause to
6 believe that a person has engaged in or is engaging in any unlawful
7 conduct prescribed in this section, it may apply for and obtain, in
8 an action in the appropriate district court of this state, a
9 temporary restraining order or injunction, or both, pursuant to the
10 Nebraska rules of civil procedure prohibiting such person from
11 continuing such practices, or engaging therein, or doing any act in
12 furtherance thereof.

13 Sec. 8. No person shall enter or attempt to enter upon
14 the lands of another without permission and intentionally
15 appropriate, excavate, injure, or destroy any archaeological
16 resource or any archaeological site. Any person committing such
17 act is guilty of a Class III misdemeanor.

18 Sec. 9. The Nebraska State Historical Society may use
19 General Fund appropriations to match other funds, grants, or money
20 received to carry out the Nebraska Archaeological Resources
21 Preservation Act.

22 Sec. 10. The State Archaeology Cash Fund is hereby
23 created. The fund may be used to carry out the purposes of the
24 Nebraska Archaeological Resources Preservation Act. Any money in
25 the fund available for investment shall be invested by the state
26 investment officer pursuant to the Nebraska Capital Expansion Act
27 and the Nebraska State Funds Investment Act.

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1 Sec. 12. Section 11 of this act becomes operative on
2 January 1, 2006. The other sections of this act become operative
3 on their effective date.".

4 2. On page 1, line 1, strike "cemeteries" and insert
5 "the Nebraska State Historical Society" and after the semicolon
6 insert "to adopt the Nebraska Archaeological Resources Preservation
7 Act; to provide penalties;"; and in lines 2 and 3 strike "an
8 operative date" and insert "operative dates".

9 3. Renumber the remaining section accordingly.